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11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 SAN FRANCISCO DIVISION

14 UNITED STATES OF AMERICA,) NO. 19-CR-00280-2 RS
15 v.)
16 EDWIN ALVARADO AMAYA, a/k/a) GOVERNMENT'S SENTENCING
"MUERTE") MEMORANDUM
17) Sentencing Date: February 21, 2023
18 Defendant.) Time: 9:30 a.m.
19)
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21 Members of the MS-13 20th Street Clique engaged in several acts of violence throughout
22 the Bay Area between 2013 and 2019, particularly in the Mission District of San Francisco.
23 Some members only engaged in assaults. Defendant Edwin Alvarado Amaya, a/k/a "Muerte,"
24 went well beyond that. Alvarado Amaya has demonstrated a penchant for violence ever since
25 getting involved with the clique in approximately 2016. He has admitted to being the main
26 perpetrator in two vicious stabbings – one in May 2017 where he murdered another 20th Street

1 gang member, Giovanni Alvarez, a/k/a “P Wee,” and one where he seriously injured R.L., who
2 he believed to be a gang rival in November 2017.

3 Alvarado Amaya has accepted responsibility for his conduct and has reached an
4 agreement with the government on a 300-month term of imprisonment to be recommended by
5 both parties to the Court.¹ The government recommends that the Court impose this sentence,
6 along with five years of supervised release, a \$200 special assessment, \$9,050 in restitution for
7 victim R.L., and a restitution hearing if needed, for the family of Alvarez.² The government
8 believes that a 300-month sentence is the lowest sentence necessary to achieve all of the goals of
9 sentencing.

10 **I. Offense Conduct**

11 As set forth in more detail in Probation’s Revised Presentence Investigation Report (the
12 “PSR”), the MS-13 20th Street Clique claims territory in the Mission District of San Francisco.
13 *See id.* at ¶48. One of the purposes of the clique is to defend its territory from rival gang
14 members. *See id.* Clique members seek to maintain control of drug distribution on its turf, and
15 they engage in various violent crimes (including murder). *See id.*

16 Members and associates often have gang monikers that are known to other members
17 instead of their real names. *See id.* at ¶49. Alvarado Amaya’s gang moniker is “Muerte,” which
18 means “death” in Spanish. *See id.* at ¶53. He first began associating with MS-13 20th Street in
19 2016 and became a fully jumped-in member while at Santa Rita Jail in 2020. *See id.* Alvarado
20 Amaya flaunts his gang affiliation by sporting multiple gang tattoos, including a three-dot tattoo
21 on his hand, tear drop tattoos on his face, and a “20th St.” tattoo on his left forearm. *See id.*

22 In at least the two instances alleged in this case, Alvarado Amaya has acted as an
23 enforcer for the clique. He was the principal attacker of Giovanni Alvarez, a/k/a “P Wee,” a 20th
24 Street member who had fallen out of favor with the clique. *See id.* at ¶54. SFPD discovered

25
26 ¹ The maximum penalty on Count 7 is 120 months, so the government supports
27 Probation’s recommendation that Mr. Alvarado Amaya be sentenced to 300 months on Count 1
and a concurrent sentence of 120 months on Count 7. *See PSR Revised Sentencing
Recommendation.*

28 ² The government’s victim/witness office is in contact with Alvarez’s family. The family
is determining whether they have any expenses for which they are entitled to restitution.

1 Alvarez's body with several edge wounds, with his face sliced to the point that brain matter was
2 exposed. *See id.* at ¶55. Officers recovered a machete sheath near Alvarez's body, which later
3 showed "very strong support" for the inclusion of Alvarado Amaya's DNA. *See id.* The DNA
4 lab also found "moderate support" for Alvarado Amaya's DNA being found on the victim's left
5 hand. *See id.* ¶54.

6 Alvarado Amaya has admitted to luring Alvarez into a car to transport him to a remote
7 location in Bernal Heights Park, before brutally murdering him by repeatedly stabbing him in the
8 face and neck. *See id.* ¶54. The government alleges that he conducted this attack under the
9 direction of Elmer Rodriguez, a/k/a "Gordo." *See Dkt. 737* (Third Superseding Indictment).

10 Alvarado Amaya's acts of violence did not end with that murder. On November 30, 2017
11 at approximately 5:30 a.m., Alvarado Amaya and four other 20th Street members and associates
12 approached R.L. in a four-door sedan near a bus stop on Potrero Avenue and 24th Street. *See*
13 PSR at ¶56. According to R.L., the driver accused the victim of being a "Buster," which is a
14 derogatory term for a Norteño. *See id.* Alvarado Amaya and clique member Oscar Espinal,
15 a/k/a "Chuy," got of the car and chased after the victim. *See id.* Espinal held down R.L. while
16 Alvarado Amaya stabbed the victim approximately 15 times with a box-cutter style knife. *See*
17 *id.* R.L. suffered life-threatening injuries because of the attack, including the 15 stab wounds to
18 the back, chest, stomach, face, hands, and head. *See id.* at ¶¶56, 60. R.L. survived the brutal
19 assault, but says that he is still in debt from hospital bills and remains living in a friend's garage.
20 *See id.* at ¶60. The government determined that he is entitled to \$9,050 in restitution based on
21 the documentation he was able to provide the government.³

22 **II. Guidelines Calculation**

23 The government agrees with Probation's calculation of the offense level as described in
24 paragraphs 64 to 83 of the PSR. Alvarado Amaya's offense level for the RICO conspiracy is 43
25 because of the murder, and 37 for the VICAR attempted murder. Combining those offense
26

27

³ Though his actual loss amount is likely greater given the severity of his injuries, the
28 government relied on the documentation he was able to provide to show lost wages and medical
expenses directly tied to his injuries.

1 levels together results in an offense level of 44. His total offense level drops to 41 after factoring
2 in acceptance of responsibility.

3 Alvarado Amaya does not have a prior criminal history. *See* PSR at ¶¶86-88. The
4 Guidelines range is based on an offense level of 41 and a CHC of I is **324 to 405** months.

5 **III. Section 3553(a) Factors**

6 The factors listed under 18 U.S.C. § 3553(a) indicate that the parties' recommended
7 sentence of 300 months' imprisonment is necessary to achieve the goals of sentencing. The key
8 3553(a) sentencing factors in this case are the nature and circumstances of the offenses and the
9 history and characteristics of the defendant, 3553(a)(1), and the need for the sentence to afford
10 adequate deterrence and protect the public from further crimes of the defendant, 3553(a)(2).

11 **A. Nature and Circumstances of the Offenses**

12 In a span of approximately six months in 2017, Alvarado Amaya participated in two
13 heinous attacks that left one man seriously injured and another man dead. He used a bladed
14 weapon in both attacks, though the location of the attacks varied. Alvarado Amaya ensured that
15 he committed the May 2017 Alvarez murder in a remote location, by helping transport Alvarez
16 to Bernal Heights Park in the middle of the night. He was more brazen with the November 2017
17 attack. That attempted murder took place on a heavily frequented street, albeit at 5:30 in the
18 morning. R.L. suffered 15 stab wounds during the Potrero attack, while Alvarez's face was
19 brutally stabbed in the Bernal Heights murder. Both attacks show that Alvarado Amaya
20 embraces violence and lacks any regard for human life. A significant term of incarceration is
21 required to account for such conduct.

22 **B. History and Characteristics of the Defendant**

23 Alvarado Amaya's history and characteristics also justify the term of imprisonment
24 recommended by the government. He has been an associate of the 20th Street clique since 2016,
25 and in fact became a fully jumped-in member while in custody at Santa Rita Jail. A mitigating
26 factor (and the basis for the slight variance that the government recommends) is Alvarado
27 Amaya's age at the time of the offenses and his relative status in the gang. He was just twenty
28 years old at the time of the attack with no prior criminal history. The government also alleges

1 that he was acting on the orders of clique leader Elmer Rodriguez. To be clear, his age and
2 subordinate status in the clique by no means excuse his conduct. Those mitigating factors,
3 however, are ones that the Court should account for and justify the parties' recommended
4 sentence.

5 **C. Protection of the Public and Deterrence**

6 The Court must impose a substantial sentence on Alvarado Amaya to prevent him from
7 committing future crimes. Alvarado Amaya was the principal hands-on perpetrator in the two
8 stabbings to which he has admitted. He showed a willingness to take a human life, and then tried
9 to do it again just six months later. A lengthy incarceration for Alvarado Amaya is necessary to
10 prevent him from attempting to murder anyone else, and to send a message to other gang
11 members that committing acts of violence like Alvarado Amaya will result in them spending a
12 large portion of their adult lives in prison.

13 **IV. Conclusion**

14 Considering all of the 3553(a) sentencing factors, the government respectfully
15 recommends a sentence of 300 months' imprisonment, a five-year term of supervised release, a
16 \$200 special assessment, a \$9,050 restitution award for victim R.L., and restitution as ordered by
17 the court for the family of Giovanni Alvarez following either a hearing or the parties' stipulation.

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19 Dated: February 14, 2023

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20
21 /s/
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24 ANDREW SCOBLE
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